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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,751	06/21/2001	Anthony J. Baerlocher	401961	6700

7590

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EXAMINER

CAPRON, AARON J

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/886,751

Applicant(s)

BAERLOCHER ET AL.

Examiner

Aaron J. Capron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/21/00.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, drawn to a method of playing a wagering game that have spin/stop buttons, classified in class 463, subclass 16.
- II. Claims 10-12, drawn to a method of preparing a gaming table, classified in class 463, subclass 46

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions differ such that Invention I is a method of playing a game and Invention II is a method of preparing a game table for different game features. Invention II, as claimed, can be used with a variety of games other than Invention I and has its own distinct functionality.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Garrettson Ellis on November 14, 2002, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowden (U.S. Patent No. 5,630,586) in view of Takemoto et al. (U.S. Patent No. 6,004,208; hereafter "Takemoto").

Lowden discloses a method of playing a gaming machine at a table game apparatus wherein the player can bet on a dealer enabled player selected spin at the game in order to win prizes, but does not disclose using a stop button to aid the player (4:61-65). However, Takemoto uses a stop button to help the player play the game. Further, Takemoto discloses a method of playing a game by providing a payline display having a plurality of display segments bearing a predetermined number of indicia (Figures 26B-27B); providing a player a spin/stop button (Figure 1: items 108/109); enabling the player spin button for the first time; depressing the spin button to cause the plurality of display segments to spin wherein one or more, but not all, of the plurality of display segments stop spinning after the enabled spin button is depressed for the first time (5:53-58: some of the reels may stop due to a predetermined time lapse while other reels can still be stopped using the stop button); and depressing the enabled button for the second time to cause at least some of the display segments to stop spinning. One would be motivated to combine the references since Lowden discloses combining a gaming machine into a table type

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setting where a plurality of players can play the game together. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the stop button feature of Takemoto into Lowe's gaming table in order to allow players to play the game together and therefore generate more interest in the game.

Referring to claims 2-4, Lowden and Takemoto disclose placing an additional step of placing an ante wager prior to the player enabling the spin button, the stop button and after enabling the button for the first time (Lowden 1:46-56).

Referring to claims 5-6, Lowden and Takemoto disclose that the dealer enables the player spin and stop button for the first and second time.

Referring to claim 7, Lowden and Takemoto disclose that a proposition bet can be made (5:14-31).

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowden (U.S. Patent No. 5,630,586) in view of Takemoto et al. (U.S. Patent No. 6,004,208; hereafter "Takemoto") further in view of Kelly et al. (U.S. Patent No. 5,584,763; hereafter "Kelly").

Lowden in view of Takemoto disclose a method of providing a spin and stop button, enabling the spin/stop button, but does not disclose a progressive game victory indicator. However, Kelly discloses a gaming machine that uses a stop button wherein a player can win a progressive game (abstract). The two references are analogous since both refer to gaming machines that let the players use stop buttons to control the spin and give the impression that the player has more control. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the progressive feature of Kelly into

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Lowden and Takemoto's invention in order to let the player have more control and create more excitement for the game.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520.

The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
November 18, 2002



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